

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LINDSEY BULLARD,)
)
Plaintiff,)
)
v.)
)
MEDIA PLAY, INC.,)
MRA HOLDING, LLC, and)
MANTRA FILMS, INC.,)
)
Defendants.)
)

)

CIVIL ACTION FILE
NO. 1:04-CV-2407 (JEC)

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S
SECOND MOTION FOR CONTEMPT**

Defendants MRA Holding, LLC and Mantra Films, Inc. file the following
Opposition to Plaintiff's Second Motion for Contempt showing the Court as
follows:

Since the Court administratively stayed this case in September 2006,
Defendants have filed eight separate status reports advising the Court of
developments in the criminal proceeding in Florida as well as a more recent federal
criminal proceeding against Joseph R. Francis. Defendants filed status reports on
the following dates: October 11, 2006; November 29, 2006; January 18, 2007;
March 23, 2007; April 19, 2007; June 6, 2007; August 20, 2007; and April 17,

2008. Plaintiff focuses on the most recent development in the Florida criminal proceeding -- a plea agreement by Mr. Francis intended to resolve finally the Florida criminal proceeding.

Contrary to Plaintiff's assertion, however, the Florida criminal proceeding was not "completed" on March 12. March 12 was the date on which Mr. Francis flew to Florida and signed his no contest plea agreement. Based on records received from Mr. Francis' Florida criminal counsel on or about **April 17, 2008**, the plea was not actually entered until March 14, 2008 and was not transmitted to Florida criminal counsel until **March 27, 2008**. Florida criminal counsel did not send the entered plea to Mr. Francis and Defendants until on or about **April 17, 2008**. On that same day, Defendants filed their Eighth Status Report advising the Court of the plea agreement.¹

A finding of contempt requires a showing by clear and convincing evidence that Defendants willfully disobeyed a court order. There is no evidence that Defendants disobeyed any court order. Once the Defendants had knowledge from Florida criminal counsel that the plea had been entered, Defendants filed their Eighth Status Report the same day. Given these circumstances, there is no clear and convincing evidence of willful disobedience of the Court's Order. As

¹ Counsel for Defendants in this action has never had any contact with counsel for Mr. Francis in the Florida criminal proceeding.

Defendants are not opposing the lifting of the administrative stay, any argument that Defendants were “hiding the ball” to prolong the stay must fail.

In addition, the plea agreement provides for the dismissal of a forfeiture action and release of all claims by Mr. Francis against the Bay County, Florida Sheriff’s Office. The forfeiture action has not yet been dismissed so the release is not yet effective. Until the order dismissing the forfeiture action is entered, the plea is not complete. Arguably, Defendants did not need to advise the Court of the plea until this final action takes place.

Finally, Plaintiff cannot establish that she has been harmed resulting from any delay in advising the Court of the recent developments in the Florida criminal proceeding. This case was filed in 2004 and discovery closed on May 6, 2006. This matter was stayed in September 2006. This case was pending for nearly two years prior to the stay. The additional few days since Florida counsel received the Court’s disposition of the Florida criminal proceeding until the filing of Defendants’ Eighth Status Report has caused no harm to the Plaintiff, who is by her own admission young and healthy and not in any danger of losing testimony due to an adverse medical condition, age or infirmity.

Based on the foregoing, Defendants respectfully request that the Court deny Plaintiff’s Second Motion for Contempt.

This 5th day of May, 2008.

s/ J. Scott Carr

J. SCOTT CARR

Georgia Bar No. 111892

Attorneys for Defendants MRA Holding,
LLC and Mantra Films, Inc.

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CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the foregoing
DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S SECOND
MOTION FOR CONTEMPT using the CM/ECF system, which will
automatically send email notification of such filing to the following attorneys of
record:

Jeff Banks, Esq.
BANKS & RIEDEL
1301 Shiloh Road, Suite 1610
Kennesaw, Georgia 30144

This 5th day of May, 2008.

s/ J. Scott Carr
J. SCOTT CARR